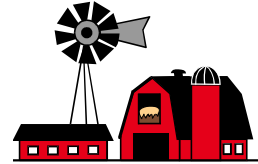




STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
Agricultural Lands Preservation Commission
c/o Department of Environmental Management
235 Promenade Street
Providence, RI 02908



AGRICULTURAL LANDS PRESERVATION COMMISSION

Minutes of the Thursday, March 17, 2016 meeting

COMMISSION MEMBERS PRESENT: Kevin Nelson, Everett Stuart, Martha Neale, Jon Reiner, Michelle Sheehan (DEM representative for Ken Ayars)

COMMISSION MEMBERS ABSENT: Dave Wallace, George Mason

STAFF: Lauren Farley – DEM

GUESTS: Vito Buonomano – Owner, Northeast Solar & Wind Power, LLC, Attorney Christopher D'Ovidio, Larry Anderson – Little Compton resident

The meeting was called to order at 4:00 at USDA, 60 Quaker Lane, Warwick, RI by Kevin Nelson, Vice Chair.

On a motion by E. Stuart and a second by J. Reiner, the Commission voted unanimously to accept the minutes of the February 25, 2016 meeting with minor edits.

On a motion by M. Sheehan and a second by K. Nelson the Commission voted unanimously to move forward agenda items pertaining to guests.

Review of current ALPC budget M. Sheehan provided update on current budget. The current balance is \$2,932,167.00. Current project commitments are \$172,000 to Andrews in Exeter, \$150,000 to Rippin in N. Kingstown, \$550,000 to Bailey, \$185,000 to Regnier/Fletcher Road, \$100,000 to Gordon in S. Kingstown, \$200,000 to Whaley Farm in South Kingstown, \$1,000,000 to Adams in Exeter, \$330,000 to Broadwall in Coventry, \$160,000 to Cesario in N. Smithfield, \$233,333 to Hibbad in Tiverton and \$200,000 to Dawson in Little Compton. Current overhead commitments (appraisals and survey) total \$85,000.

Status update of farms in negotiation M. Sheehan provided update. Anticipated FY '16 closings include: Cesario, Broadwall, Gordon, Rippin and Fletcher Road. Adams negotiations are proceeding well. Request will be made to Champlin Foundation in June for funding grant.

Sakonnet Vineyards, Main Road, Little Compton. Request from an abutter to exercise enforcement rights against current owner concerning construction of a bandstand and hosting music concerts and weddings. Attorney Christopher D'Ovidio spoke on behalf of his Client, Brian Eliason, whose property abuts Carolyn's Sakonnet Vineyard. He was joined by Larry Anderson, Little Compton resident, who also lives nearby the Vineyard. The Little Compton Agricultural Conservancy Trust (LCACT) and the State of Rhode Island Agricultural Land Preservation Commission (ALPC) co-hold development rights conveyed in 2007 for \$2.225M. Both entities have the right to enforce the Deed to Development Rights restrictions and terms. In the summer of 2015, the Vineyard obtained a building permit and constructed a bandstand for a musical concert series on Thursday and many Sundays from May through

October. The Vineyard also hosted weddings on many weekends during these months. Mr. D'Ovidio asserts that the frequent weddings and concerts do not constitute the agricultural uses articulated in the DDR or as defined in RIGL § 2-23-4 and they are not associated with the core activities of the vineyard or permissible non-agricultural mixed-uses. In January 2016, the Town of Little Compton passed ordinance 6-7 "Entertainment License" which requires: "For those applications which seek to use property subject to a "conservation restriction" pursuant to RIGL 34-39, such as a conservation easement, deed for development rights, or other similar instrument, the applicant must provide a written statement from the agency or organization holding such a conservation restriction affirming that the proposed entertainment activity is fully consistent with the terms, conditions, and provisions of the conservation restriction." This provision of the ordinance requires a written statement from the State of Rhode Island Agricultural Land Preservation Commission affirming the activities authorized through an Entertainment License. Mr. D'Ovidio contends that the ALPC should not approve frequent weddings and concerts because they violate the DDR and requests that the Commission exercise its enforcement rights to prevent the unauthorized activities. The same concerns have been brought forth with USDA/NRCS, which also holds the rights enforce the terms of the DDR.

Alternative Energy policy. Review and consider draft policy M. Sheehan presented and asked Commission if they would consider adopting formal policy clarifying alternative energy policy. At the February 2016 ALPC meeting, two solar installation requests were deferred for legal review. Cottrell is complicated by the fact that he is looking to move a portion of his set-aside area. This would require an amendment. Since an amendment policy is still forthcoming, ALPC cannot issue a decision. V. Buonomano spoke on behalf of The West Wind Farm and stated that he has a list of many farmers with protected property that want to petition ALPC to allow commercial solar power generation prohibited by DDR. The Commission discussed the intent of the DDR to protect agricultural use of land although they are sympathetic to concerns of farmers to diversify their income sources and remain viable. The standard covenant states: "No building, residential dwelling, tennis court, artificial swimming pool, asphalt driveway, road, parking lot, mobile home, utility pole, tower, conduit or line or other temporary or permanent structure or improvement requiring construction shall be constructed, placed or permitted to remain on the Premises, except structures existing on the Premises at the time of the execution of this covenant." They acknowledge that renewable energy generation is a policy prerogative in the state but DDR's are binding legal documents and development rights were purchased using taxpayer money and bond counsel is an additional stakeholder. K. Nelson asked DEM staff to 1.) Obtain DEM legal opinion in writing regarding the legal authority of the ALPC to override DDR provisions and 2.) To reach out to the Office of Energy Resources for their consideration, input and advice.

Amendment policy. Review of new legislation and its impact on ALPC's Deeds to Development Rights, discussion about developing an amendment policy M. Sheehan spoke of the increasing number of requests to ALPC to amend DDR's and the need to formalize the policy with guidance from DEM legal and Attorney General. Ideally ALPC member(s) could form a subcommittee to work with them. **On a motion by M. Sheehan and a second by J. Reiner, the Commission voted unanimously to develop formal policy to address amendment requests.**

St. Pierre Farm, Long Highway, Little Compton. Request to build an indoor riding arena on a portion of the protected farm. M. Sheehan informed the Commission that this is an allowable use according to the terms of her DDR. LCACT co-holds easement. L. Anderson asked if LCACT would be required to weigh in on request. **On a motion by M. Sheehan and**

second by M. Neale, the Commission voted unanimously to approve the request with the consent of LCACT

Weeden Farm, Matunuck Schoolhouse Road, South Kingstown: update from the Attorney General on South Kingstown Land Trust's amendment request. Deferred. Opinion of AG's office is still forthcoming.

West Wind Farm, Reservoir Road, North Smithfield. Request to install a temporary solar array on one acre of this protected farm. Deferred.

Hathaway Farm, Main Road, Tiverton. Request to subdivide a portion of the farm for sale to another farmer. Deferred. Amendment policy forthcoming.

Review of farms eligible for funding. Deferred

Farmland Acquisition Program: brief update on progress with the Rules & Regulations
The rules and regulations are still in development.

NRCS Agricultural Conservation Easement Program: update on program. Deferred. NRCS staff not present.

There being no further business, on a motion by M. Neale, seconded by E. Stuart, the Commission voted unanimously to adjourn the meeting at 5:00.